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Preparatory Commission for the International Criminal Court

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Proceedings of the Preparatory Commission at its second session (26 July–13 August 1999)

Draft summary

Rapporteur: Mr. Salah **Suheimat** (Jordan)

1. The Preparatory Commission for the International Criminal Court, established in accordance with resolution F adopted by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court on 17 July 1998, held its second session at United Nations Headquarters from 26 July to 13 August 1999, in accordance with General Assembly resolution 53/105 of 8 December 1998.[1]

2. The Preparatory Commission continued its work in accordance with the terms established in paragraph 2 of resolution F of the Conference, and paragraphs 5 and 6 of General Assembly resolution 53/105.[2]

3. The Bureau of the Preparatory Commission, elected at its 1st and 2nd meetings, on 16 and 22 February 1999, continued its work with the following composition:

Chairperson:
Mr. Philippe Kirsch (Canada)

Vice-Chairpersons:
Mr. George Winston McKenzie (Trinidad and Tobago)
Mr. Medard R. Rwelamira (South Africa)
Mr. Muhamed Sacirbey (Bosnia and Herzegovina)

Rapporteur:
Mr. Salah Suheimat (Jordan)

[1] Under paragraph 4 of General Assembly resolution 53/105, the Secretary-General was requested to convene the Preparatory Commission, in accordance with resolution F of the Conference, from 16 to 26 February, 26 July to 13 August and 29 November to 17 December 1999, to carry out the mandate of that resolution and, in that connection, to discuss ways to enhance the effectiveness and acceptance of the Court.

[2] For details see document PCNICC/1999/L.3/Rev.1, paras. 2, 4 and 5.

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4. The coordinators, designated by the Chairperson, in consultation with the Bureau, at the first session of the Preparatory Commission,[3] continued their work also during the second session of the Preparatory Commission.

5. The Director of the Codification Division of the Office of Legal Affairs, Mr. Václav Mikulka, acted as Secretary of the Preparatory Commission. The Codification Division provided the substantive servicing for the Commission.

6. At its second session, the Preparatory Commission proceeded with its work on the basis of its agenda (PCNICC/1999/L.1), adopted on 16 February 1999.

7. Taking account of the priorities set forth by resolution F of the Conference, the Preparatory Commission agreed on a work plan, which, as in the first session, focused on two instruments necessary for the functioning of the Court: the Rules of Procedure and Evidence, and the Elements of Crimes. With respect to the Rules of Procedure and Evidence, the Preparatory Commission concentrated on rules pertaining to the following parts of the Rome Statute of the International Criminal Court: Part 4 (Composition and Administration of the Court); Part 5 (Investigation and Prosecution); Part 6 (The Trial); and Part 8 (Appeal and Revision). With regard to the Elements of Crimes, the Preparatory Commission concentrated on the elements of war crimes. The Commission also undertook a number of informal consultations with respect to the crime of aggression.

8. At its 7th meeting, on 9 August 1999, the Preparatory Commission agreed on the following arrangements concerning the question of the crime of aggression:

(a) A working group on the crime of aggression will be established at the outset of the next session of the Preparatory Commission;

(b) At the next and the following sessions of the Preparatory Commission, the plenary traditionally held each Monday morning will be maintained, but will be significantly shorter, essentially limited to brief reports by the coordinators;

(c) A meeting of the working group on the crime of aggression will follow each of the Monday morning plenary meetings, until the end of the morning;

(d) Informal consultations on the crime of aggression will be conducted at other times where possible and appropriate, it being understood that this should be without prejudice to the requirements of the work on subjects which must be completed by 30 June 2000. Within the limits of what is practicable, the Secretariat will endeavour to provide the best possible facilities for those informal consultations;

(e) The above arrangements are based on a clear and general understanding that they will remain unchanged until 30 June 2000, and that no additional requests concerning organization of the work with respect to the definition of aggression will be made before that date.

9. At its 8th meeting, on 13 August 1999, the Preparatory Commission took note of the oral reports of the Coordinators for the Rules of Procedure and Evidence related to Part 4 and to Parts 5, 6 and 8 of the Rome Statute and of the Coordinator for Elements of Crimes.

10. At the same meeting, for ease of reference of delegations, the Preparatory Commission requested the Secretariat to prepare a document on the basis of the oral reports of the Coordinators and to annex it to the present report.

[3] For the list of Coordinators, see PCNICC/1999/L.3/Rev.1, paras. 12–14.

11. At its 5th meeting, on 30 July 1999, the Preparatory Commission was addressed by Judge Gabrielle Kirk McDonald, President of the International Tribunal for the Former Yugoslavia.

12. The Preparatory Commission took note of the Intergovernmental Regional Caribbean Conference for the signature and ratification of the Statute of the International Criminal Court hosted by the Ministry of the Attorney General of Trinidad and Tobago and the No Peace Without Justice Foundation, in Port-of-Spain from 15 to 17 March 1999, as well as the Port-of-Spain Declaration resulting therefrom; the international seminar on victims' access to the International Criminal Court hosted by the Government of France in Paris from 27 to 29 April 1999; the informal inter-sessional meeting hosted by the International Institute of Higher Studies in Criminal Sciences in Siracusa, Italy from 21 to 27 June 1999; and the two briefing sessions on ratification and implementation legislation of the Rome Statute, hosted by the International Human Rights Law Institute of DePaul University and Parliamentarians for Global Action on 31 July and 7 August 1999 at United Nations Headquarters in New York.

13. The Preparatory Commission also noted with satisfaction that, during its second session, 24 delegates had made use of the trust fund which, pursuant to paragraph 8 of General Assembly resolution 53/105, had been established to facilitate the participation of the least developed countries in the work of the Commission. The International Human Rights Law Institute of DePaul University provided accommodation for those delegates.

Annexes

I. List of documents issued at the second session of the Preparatory Commission.

II. Report of the Coordinator of the Working Group on Rules of Procedure and Evidence.

III. Report of the Coordinator of the Working Group on the Rules of Procedure and Evidence related to Part 4.

IV. Report of the Coordinator of the Working Group on Elements of Crimes.